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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,680	03/09/2004	Thilo Leineweber	10191/3467	4908
26646	7590	07/09/2008	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			WEISKOPF, MARIE	
ART UNIT	PAPER NUMBER			
	3664			
MAIL DATE	DELIVERY MODE			
07/09/2008	PAPER			

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/797,680	<b>Applicant(s)</b> LEINEWEBER ET AL.
	<b>Examiner</b> MARIE A. WEISKOPF	<b>Art Unit</b> 3664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 April 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Appeal Brief, filed 1/22/08, with respect to the rejection(s) of claim(s) 1, 2 and 5 under 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Asada.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Asada et al (US 6,434,471).

- In regard to claim 1, a device for controlling a speed of a motor vehicle in terms of one of a constant distance control in the case that at least one preceding vehicle is detected by a radar sensor and a constant speed control in the case that no preceding vehicle is detected by a radar sensor, the device comprising:
  - An arrangement for allowing a distance to a preceding vehicle to be set by a driver of the vehicle in the form of a time gap (Column 5, line 40 - Column 6, line 4)
  - An arrangement for changing longitudinal dynamics of the speed control when the time gap changes (Column 5, line 40 - Column 6, line 4)

- An arrangement for increasing, given a decrease in the time gap, at least one of a maximum possible vehicle acceleration and a maximum possible vehicle deceleration implementable by a speed control system so that the vehicle is capable of at least one of accelerating and decelerating more quickly given the decrease in the time gap (Column 5, line 40 - Column 6, line 4)
- An arrangement for first activating, given a decrease in the time gap, deceleration devices of the vehicle at a shorter distance from the preceding vehicle (Column 5, line 40 - Column 6, line 4)
- In regard to claim 2, wherein a change in the time gap allows different driving programs to be selected. (Column 5, line 40 - Column 6, line 4)
- In regard to claim 5, a method for controlling a speed of a motor vehicle in terms of one of a constant distance control in the case that at least one preceding vehicle is detected by a radar sensor and a constant speed control in the case that no preceding vehicle is detected by a radar sensor, the method comprising:
  - Setting a distance to a preceding vehicle by a drive of the vehicle in the form of a time gap (Column 5, line 40 - Column 6, line 4)
  - Changing longitudinal dynamics of the speed control when the time gap changes (Column 5, line 40 - Column 6, line 4)
  - An arrangement for increasing, given a decrease in the time gap, at least one of a maximum possible vehicle acceleration and a maximum possible vehicle deceleration implementable by a speed control system so that the

- vehicle is capable of at least one of accelerating and decelerating more quickly given the decrease in the time gap (Column 5, line 40 - Column 6, line 4)
- o An arrangement for first activating, given a decrease in the time gap, deceleration devices of the vehicle at a shorter distance from the preceding vehicle (Column 5, line 40 - Column 6, line 4)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIE A. WEISKOPF whose telephone number is (571)272-6288. The examiner can normally be reached on Monday-Thursday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3664

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MW

/Khoi H Tran/

Supervisory Patent Examiner, Art Unit 3664